

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

**IN RE PHARMACEUTICAL
INDUSTRY AVERAGE
WHOLESALE PRICE
LITIGATION**

THIS DOCUMENT RELATES TO:

STATE OF NEVADA V. ABBOTT
LABORATORIES, INC., ET AL., CA
NO. CV-02-00260-ECR (Nevada I)

STATE OF NEVADA V. AMERICAN
HOME PRODUCTS, ET AL., CA NO.
02-CV-12086-PBS (Nevada II)

MDL NO. 1456
Civil Action No. 01-12257-PBS
Judge Patti B. Saris

Chief Magistrate Judge Marianne B. Bowler

[REDACTED VERSION]

**DECLARATION OF RYAN M. DISANTIS TRANSMITTING EXHIBITS TO
DEFENDANTS' JOINT MEMORANDUM IN SUPPORT OF DEFENDANTS' JOINT
MOTION FOR REDRESS FOR SPOILIATION EVIDENCE**

I, RYAN M. DISANTIS, hereby declare:

1. I am a member of the bar of the Commonwealth of Massachusetts and of this Court. I am an associate with Ropes & Gray LLP, and counsel to defendants Schering-Plough Corporation ("Schering") and Warrick Pharmaceuticals Corporation ("Warrick"). I submit this Declaration in support of Defendants' Joint Motion for Redress for Spoliation Evidence to place before the Court exhibits to Defendants' Joint Memorandum in Support of Defendants' Joint Motion for Redress for Spoliation Evidence.

2. Exhibits A through Q, which are attachments to Defendants' Joint Memorandum in Support of Defendants' Joint Motion for Redress for Spoliation of Evidence and have been manually filed with the Court, are true and correct copies of the following:

EXHIBIT**TAB**

Fact Admissions Requested by the Defendants	A
Letters from L. Timothy Terry to Defendants	B
Mr. Terry's Letter to Charles A. Rice of Dey, L.P., dated May 10, 2000	B.1
Mr. Terry's Letter to Raman Kapur of Warrick Pharmaceuticals Corp., dated May 9, 2000	B.2
Reply Letters from Defendants to L. Timothy Terry	C
Letter from Dey, L.P. to L. Timothy Terry, dated June 13, 2000, re: Responses to Specified Questions	C.1
Letter from Warrick Pharmaceuticals Corp. to L. Timothy Terry, dated June 21, 2000, re: Response to May 9, 2000 Letter to Raman Kapur (filed under seal)	C.2
State of Nevada Department of Human Resources Division of Health Care Financing and Policy Authorized Records Retention and Disposition Schedules	D
Office of Inspector General Reports: Table of Contents	E
Relevant OIG Reports, May 1996 – September 2002	E.1-E.30
Oct. 5, 1995 Interoffice Memorandum from Terry Krantz to Nancy Ellery re: Audit of Pharmacy Acquisition Cost by the Inspector General.....	F
State of Montana Internal Documents re: Medicaid Pharmacy Reimbursement.....	G
AMR Drafter Checklist with Shannon Marr Discussion re: Medicaid Pharmacy Reimbursement.....	G.1
Memorandum from Maggie Bullock to Gail Gray re: Proposed Rule Related to Medicaid Pharmacy Reimbursement	G.2
Memoranda from Laurie Squartsoff	H
Memorandum re: Medicaid Rates vs. Usual/Customary Charges for Prescriptions, dated June 12, 1992	H.1
Memorandum re: Dispensing Fees for Pharmacy Services, dated June 30, 1995	H.2

Memorandum re: Dispensing Fees from Other Third Party Payors; dated July 12, 1995	H.3
Relevant CCH Publications and Government Accounting Office Reports	I
Aug. 1997 OIG Report re: Medicaid Pharmacy: Acquisition Cost of Generic Prescription Drug Products	I.1
Dec. 1997 OIG Report on Excessive Medicare Payment for Prescription Drugs	I.2
July 1998 OIG Report re: Impact of High-Priced Generic Drugs	I.3
Oct. 1999 OIG Work Plan FY 2000	I.4
Oct. 2001 OIG FY 2002 Work Plan	I.5
Sept. 2001 United States General Accounting Office Report, <i>Payments for Covered Outpatient Drugs Exceed Providers' Cost</i>	I.6
2003 CMS Report on Pharmaceutical Industry	I.7
Myers & Stauffer Margin Analysis.....	J
Attached E-mail from Ray Hanley to Janice Wright re: Report on Public Hearing on Chain Pharmacy Discounts and Some Questions to Pose	K
Correspondence with Jeniphr Breckenridge	L
E-mail from Jeniphr Breckenridge to Jason Litow re: Jan. 12, 2006 Litow Letter/Keith MacDonald Study, dated Feb. 7, 2006	L.1
Letter from Christopher Dillon to Jeniphr Breckenridge re: Nevada AWP Actions, dated May 16, 2006.....	L.2
Letter from Jeniphr Breckenridge to Christopher Dillon re: Nevada AWP Actions, dated June 1, 2006.....	L.3
E-mail from Coleen Lawrence to Kevin Londeen re: AWP Analysis.....	M
Relevant E-mails from Comprehensive Cancer Centers of Nevada (filed under seal)	N
Relevant E-mails from State of Montana.....	O

Average Sales Price Quarterly Report for Bayer Pharmaceuticals – Quarter 2001/02 (filed under seal).....	P
Deposition Excerpts	Q
Abba, June 27, 2006	Q.1
Duarte Vol. I, Nov. 15, 2005	Q.2
Duarte Vol. II, Nov. 16, 2005	Q.3
Duarte Vol. III, Mar. 22, 2006.....	Q.4
Ebo, June 28, 2006	Q.5
Hansen, Mar. 1, 2006	Q.6
Hillerby, May 23, 2006	Q.7
Lawrence Vol. I, Aug. 15, 2003	Q.8
Lawrence Vol. III, Mar. 23, 2006.....	Q.9
Liveratti, Nov. 17, 2005	Q.10
Lopez, May 25, 2006.....	Q.11
MacDonald, Mar. 24, 2006.....	Q.12
Rosenberg, Nov. 16, 2005	Q.13
Squartsoff, Mar. 6, 2006.....	Q.14
Thompson, Jan. 6, 2006.....	Q.15
Townley, Jan. 27, 2006.....	Q.16
Wherry, Mar. 21, 2006	Q.17
Willden, Mar. 21, 2006.....	Q.18

3. Several of these exhibits contain information that has been deemed "Highly Confidential" pursuant to the Protective Order entered by this Court on December 13, 2002, and, as a result, have been filed under seal. These exhibits are C.2, N and P.

Respectfully submitted,

/s/ Ryan M. DiSantis

John T. Montgomery (BBO# 352220)

Brien T. O'Connor (BBO# 546767)

Christopher R. Dillon (BBO# 640896)

Ryan M. DiSantis (BBO# 654513)

ROPES & GRAY LLP

One International Place

Boston, MA 02110

(617) 951-7000

*Attorneys for Schering-Plough Corp. &
Warrick Pharmaceuticals Corp.*

Dated: July 21, 2006

CERTIFICATE OF SERVICE

I, Ryan M. DiSantis, hereby certify that a true copy of the foregoing document was served upon all counsel of record in Nevada I and Nevada II electronically pursuant to Fed. R. Civ. P. 5(b)(2)(D) and CMO No. 2 on this 21st day of July, 2006, by causing a copy to be sent to LexisNexis File & Serve for posting and notification to all counsel of record.

/s/ Ryan M. DiSantis
Ryan M. DiSantis